

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D. C.

ORDER NO. 1160

IN THE MATTER OF:

Served August 2, 1971

Application of WMA Transit )	Application No. 671
Company to Amend its WMATC )	
Certificate of Public Con- )	Docket No. 226
venience and Necessity No. )	
8 to Add Authority to Operate)	
Route X. )	

By Application No. 671, filed on December 17, 1970, WMA Transit Company (WMA) sought to amend its WMATC Certificate of Public Convenience and Necessity No. 8 to add authority to operate Route X between Laurel, Maryland and Washington, D. C. The application was set for public hearing at which Greyhound Lines, Inc. (East), (Greyhound) appeared as a protestant, and Safeway Trails, Inc. and a representative of residents of Briarcroft-Briarwood Community appeared as intervenors.

By Order No. 1138, issued June 7, 1971, we granted WMA the requested certificate amendment. We found, however, that there was no need for additional service to the Farragut Square area of Washington from that portion of Laurel to be served by WMA. Consequently, we directed WMA to operate its route from Laurel via Capitol Hill and the Southwest Employment Center, to the Federal Triangle rather than to Farragut Square.

On June 24, 1971, Greyhound submitted a petition for reconsideration of the effective date of Order No. 1138, which was denied by Order No. 1151. On the basis of that denial, Greyhound filed a petition for review and a motion for stay in the U. S. Court of Appeals for the Fourth Circuit on June 25, 1971. No stay was granted, and the petition for review was dismissed without prejudice on July 20, 1971.

On July 2, 1971, Greyhound submitted a second petition for reconsideration combined with a request for oral argument. We have carefully examined the points made in Greyhound's application for reconsideration, but find no basis therein for granting the relief requested.

Greyhound's petition does not raise any issues which require the taking of additional evidence, and oral argument before the entire Commission is not necessary for an evaluation of the merits of the issues raised. Therefore, we will deny the requests for presentation of additional evidence and for oral argument.

Greyhound's opposition to the authority granted in Order No. 1138 is based on the location of the Route X Washington terminus at 11th and E Streets, N. W. In fact, Greyhound states that if WMA service did not extend to that point, Greyhound would not have sought reconsideration.

Several grounds are offered by Greyhound as constituting a basis for reconsideration.

First, Greyhound contests that no showing was made that the public convenience and necessity requires WMA service between Laurel and the Federal Triangle.

We found a prima facie need for direct service between Laurel and the Federal Triangle. The size, population density, and growth characteristics of the Route 197 corridor in Laurel had been the subject of testimony before the Commission in Docket No. 211 to which Greyhound was a party. Order No. 1044 noted, "a large number of apartment complexes had grown up on Maryland 197." Further, we are aware of, and may take notice of, the fact that Laurel is a growing residential community with strong ties to the Washington metropolitan area. Contrary to Greyhound's assertion that a Commissioner's remark which disclosed his awareness of the growth of Laurel should disqualify him, we consider that a knowledge of the growth pattern in the area to which we are charged with providing mass transportation is an asset rather than a disqualification.

Similarly, the employment population of the Federal Triangle is a matter of public knowledge which we may properly take notice of. These two factors, employment in the Federal Triangle and residential growth in the Route 197 corridor, do in fact constitute a prima facie showing that transportation between the residential area and the employment area is or will be required by the public convenience and necessity.

In Application No. 671, WMA sought a route from Laurel to Farragut Square via Capitol Hill, Southwest Employment Center, and the Federal Triangle. The proposal would have taken the route through the widest part of the Federal Triangle on 14th Street. When we determined that Farragut Square did not need Route X service, we directed that the route terminate at WMA's downtown terminal, at 11th and E Streets, N. W.

Greyhound argues that by terminating the route at WMA's downtown terminal, the Commission substantially changed the nature of the route from what had been proposed, and prevented Greyhound from presenting evidence that the route authorized would divert substantial passengers from, and thereby substantially injure, Greyhound. This argument will not stand when examined in light of the two routes in question. The Federal Triangle describes that area of federal office buildings between 15th and 5th Streets, and Pennsylvania and Constitution Avenues, N. W. WMA's Application No. 671 proposed to run through the Federal Triangle along 14th Street on its way between the Southwest employment area and Farragut Square. Order No. 1138 altered that route so that WMA's service from Laurel proceeds along 12th Street to Pennsylvania Avenue and then to the WMA terminal at 11th and Pennsylvania Avenue; the return service to Laurel is routed over Pennsylvania Avenue to 14th Street and via 14th Street to the Southwest. It was obvious from the beginning that WMA's service was to be operated to the Federal Triangle. As originally applied for, the Route X would pass closer to each and every point on the Federal Triangle than Greyhound's Laurel service. Greyhound had full notice of WMA's intent to operate between Laurel and the Federal Triangle and had full opportunity to present any evidence it wished, relating to such service or any effects it might have on Greyhound. In fact, Greyhound failed to offer any evidence on possible diversion of patrons working in the Federal Triangle except for the indication that one public witness might have testified, had she been present, that she would not have been diverted from Greyhound.

Nor are we convinced by Greyhound's argument that its existing service to its 12th and New York Avenue terminal derogates any finding of need for additional service to the Federal Triangle from Laurel. The fact that Greyhound provides good service between Laurel and Farragut Square, as we

found in Order No. 1138, does not mean that Greyhound is providing good service between Laurel and the Federal Triangle. The five blocks from Greyhound's terminal to the nearest point on the Federal Triangle is a distance of 2/5 of a mile. A rule of thumb that we have used in the past is that an area can be said to receive "direct" service if the bus runs within three blocks, but service more distant than that cannot be considered as more than marginal service to that area.

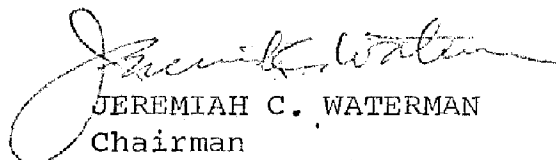
Greyhound also denotes as error the absence of a specific finding that WMA is fit to operate Route X. Its argument centers on the admitted financial weakness of WMA at the time its application was made. A finding of fitness is required at the time of the grant of a new certificate to a carrier and is not required each time a certificate is amended. Moreover, the facts before us do show WMA to be financially fit to render the service. Commission Order No. 1127, issued May 20, 1971, adjusted WMA's fares in such a manner as to enable us to project a rate of return of over five percent for the year 1971. Further, Order No. 1138 properly relied on testimony of the operating witness for WMA that the route would, in his opinion, become profitable in the near future.

Other matters which Greyhound contend as error do not provide any substantial basis for reconsideration.

THEREFORE, IT IS ORDERED:

1. That Greyhound Lines, Inc. (East) July 2, 1971 Petition for Reconsideration and Request for Oral Argument of Order No. 1138 be, and it is hereby, denied.
2. That WMA Transit Company operate Route X effective August 9, 1971.

BY DIRECTION OF THE COMMISSION:

  
JEREMIAH C. WATERMAN  
Chairman